

a member of the General Assembly from being elected; but he cannot merely be appointed. We differ from the old Constitution in the sense that in the new constitutional language a man can be elected to an office which was created during his term, or the salary of which was raised during his term, that is fine. He simply cannot be appointed.

THE PRESIDENT: Delegate Case.

DELEGATE CASE: Would Delegate Gallagher yield for a question?

THE PRESIDENT: Delegate Gallagher?

DELEGATE GALLAGHER: Yes.

THE PRESIDENT: Delegate Case.

DELEGATE CASE: Delegate Gallagher, so that I can clearly understand the intent of your Committee let me put this hypothetical situation to you:

Suppose Mr. X is elected to the House of Delegates and after one year of service for reasons best known to him he resigns. Then three years later, or at the end of that term while he is back in private employment, the General Assembly creates an office. It is the intention of your Committee to preclude that particular resigned delegate from being able to be appointed to that particular office?

THE PRESIDENT: Delegate Gallagher.

DELEGATE GALLAGHER: If the appointment would take place during a period of time that he would have served had he not resigned, then he is prohibited from being appointed to the position.

THE PRESIDENT: Delegate Case. Is it the appointment or the creation of the office? That is the thing that gets me a little bit.

THE PRESIDENT: Delegate Gallagher.

DELEGATE GALLAGHER: It is the intention of the Committee to preclude anyone who was elected to an office, regardless of when he resigned and regardless of when within the four year term the office was created or salary of which was increased. It is the intention of the Committee to prohibit him during that same four year period from ever being appointed to an office which was created or salary of which was increased.

THE PRESIDENT: Delegate Case.

DELEGATE CASE: Chairman Gallagher, not that I am disagreeing with

you, but does this go further than the philosophy of General Provisions found in the constitutions across the country on this? The prohibition seeks to strike at people who participate in the creation of offices and then resign and get the benefit of their creating ability, whereas in the case we have been discussing, of course, the prospective candidate would not have had any, or played any part in the creation of the office, yet he still nonetheless would be barred from accepting appointment to that office.

THE PRESIDENT: Delegate Gallagher.

DELEGATE GALLAGHER: Of course a member of the General Assembly who decided he had a good opportunity to fill an office which was about to be created by the General Assembly, could simply resign the day before the office was created and say, "I was not there to vote upon the creation of the office, and therefore I ought to be allowed to be appointed to the office." I think in order to take care of the situation generally you have to have a general prohibition.

Some people may have resigned in good faith and had nothing to do with the creation of the office because it occurred after they left, or they may actually have been parties to all the pre-final determinate activity that goes on in a General Assembly.

DELEGATE CASE: Sort of occupational hazards of being a member of the General Assembly, would you say?

THE PRESIDENT: Delegate Gallagher.

DELEGATE GALLAGHER: It is part of the glory of the office, yes.

THE PRESIDENT: Delegate James.

DELEGATE JAMES: Another one of the burdens we must bear.

Mr. Chairman, I would like to pose a question to Delegate Gallagher.

THE PRESIDENT: Does Delegate Gallagher yield to a further question?

DELEGATE GALLAGHER: Yes.

THE PRESIDENT: Delegate James.

DELEGATE JAMES: How does this affect judicially ambitious legislators? In the past the system has been to pass a constitutional amendment and put a savings clause in the constitutional amendment. Not having any judicial ambitions, I am not particularly interested myself,